

any shipment of tomatoes for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Importation* means release from custody of the United States Bureau of Customs. *Cherry tomatoes* means cerasiform types commonly referred to as “cherry tomatoes.” *Pear shaped tomatoes* means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties. *Hydroponic tomatoes* means tomatoes grown in solution without soil. *Greenhouse tomatoes* means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (7 CFR 51.1855 through 51.1877).

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning and pickling.

[42 FR 55192, Oct. 14, 1977, as amended at 43 FR 3349, Jan. 25, 1978; 57 FR 27352, June 19, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996; 63 FR 12401, Mar. 13, 1998; 72 FR 2172, Jan. 18, 2007; 74 FR 2808, Jan. 16, 2009; 74 FR 45736, Sept. 4, 2009; 74 FR 65394, Dec. 10, 2009]

§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports or receives any of the commodities listed in paragraphs (a)(1) through (4) of this section shall file (electronically or paper) an “Importer’s Exempt Commodity Form” (FV-6) with the Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA. A “person who imports” may include a customs broker, acting as an importer’s representative (hereinafter referred to as “importer”). A copy of the completed form (electronic or paper) shall be provided to the U.S. Customs and Border Protection. If a paper form is used, a copy of the form shall accompany the lot to the exempt outlet specified on the form. Any lot of any commodity offered for inspection

and, all or a portion thereof, subsequently imported as exempt under this provision shall also be reported on an FV-6 form. Such form (electronic or paper) shall be provided to the Marketing Order and Agreement Division in accordance with paragraph (d) of this section. The applicable commodities are:

(1) Potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies;

(2) Potatoes, onions, or tomatoes for processing;

(3) Potatoes or onions for livestock feed; or

(4) Pearl onions.

(b) *Certification of exempt use.* (1) Each importer of an exempt commodity as specified in paragraph (a) of this section shall certify on the FV-6 form (electronic or paper) as to the intended exempt outlet (e.g., processing, charity, livestock feed). If certification is made using a paper FV-6 form, the importer shall provide a handwritten signature on the form.

(2) Each receiver of an exempt commodity as specified in paragraph (a) of this section shall also receive a copy of the associated FV-6 form (electronic or paper) filed by the importer. Within two days of receipt of the exempt lot, the receiver shall certify on the form (electronic or paper) to the Marketing Order and Agreement Division that such lot has been received and will be utilized in the exempt outlet as certified by the importer. If certification is made using a paper FV-6 form, the receiver shall provide a handwritten signature on the form.

(c) It is the responsibility of the importer to notify the Marketing Order and Agreement Division of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, returned to the country of origin, or otherwise disposed of. In such cases, a second FV-6 form must be filed by the importer, providing sufficient information to determine ultimate disposition of the exempt lot, and such disposition shall be so certified by the final receiver.

(d) All FV-6 forms and other correspondence regarding entry of exempt commodities must be submitted electronically, by mail, or by fax to the

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Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone (202) 720–2491; email *ComplianceInfo@ams.usda.gov*; or fax (202) 720–5698.

[80 FR 15677, Mar. 25, 2015]

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